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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Guadalupe Ayala,

Plaintiff,

vs.

Pineapple Express Delivery LLC, an
Arizona limited liability company, and
Pedro Flores and Jane Doe Flores, a
married couple,

Defendants.

No.

COMPLAINT

Plaintiff, Guadalupe Ayala (“Plaintiff”), sues the Defendants, Pineapple Express Delivery LLC and Pedro Flores and Jane Doe Flores, (“Defendants”) and alleges as follows:

PRELIMINARY STATEMENT

1. This is an action for unpaid minimum wages and overtime wages, liquidated damages, attorneys’ fees, costs, and interest under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201, et seq., unpaid minimum wages under the Arizona

1 Minimum Wage Act (“AMWA”), Arizona Revised Statutes (“A.R.S.”) § 23-362, et seq.
2 and unpaid wages under the Arizona Wage Act (“AWA”) A.R.S. § 23-350, et seq.

3 2. The FLSA was enacted “to protect all covered workers from substandard
4 wages and oppressive working hours.” Barrentine v. Ark Best Freight Sys. Inc., 450 U.S.
5 728, 739 (1981). Under the FLSA, employers must pay all non-exempt employees a
6 minimum wage of pay for all time spent working during their regular 40-hour
7 workweeks. See 29 U.S.C. § 206(a). Under the FLSA, employers must pay all non-
8 exempt employees one and one-half their regular rate of pay for all hours worked in
9 excess of 40 hours in a workweek. See 29 U.S.C § 207.

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12 3. Plaintiff brings this action against Defendants for their unlawful failure to
13 pay overtime in violation of the Fair Labor Standards Act, 29 U.S.C. § 201-219
14 (“FLSA”).

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16 4. Plaintiff brings this action against Defendants for their unlawful failure to
17 pay minimum wage in violation of the AMWA, A.R.S. § 23-362, et seq.

18 5. Plaintiff brings this action against Defendants for their unlawful failure to
19 pay all wages due and owing in violation of the AWA, A.R.S. § 23-350, et seq.

20
21 6. This is an action for unpaid wages, liquidated damages, interest, attorneys’
22 fees, and costs under the FLSA and minimum wages under the AMWA.

23 7. The AMWA, A.R.S § 23-363, et seq., establishes a minimum wage within
24 the State of Arizona.

25
26 8. The AWA, A.R.S. § 23-350, et seq., establishes standards for wage
27 payments to employees within the State of Arizona.

JURISDICTION AND VENUE

9. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and 29 U.S.C. § 201, *et seq.* because this civil action arises under the Constitution and law of the United States. This Court also has subject matter jurisdiction pursuant 28 U.S.C. § 1367 because the state law claims asserted herein are so related to claims in this action over which this Court has subject matter jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.

10. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(ii) because acts giving rise to the claims of Plaintiff occurred within the District of Arizona, and Defendants regularly conduct business in and have engaged in the wrongful conduct alleged herein – and, thus, are subject to personal jurisdiction in – this judicial district.

PARTIES

11. At all times material to the matters alleged in this Complaint, Plaintiff was an individual residing in Maricopa County, Arizona, and is a former employee of Defendants.

12. At all material times, Defendant Pineapple Express Delivery LLC was a corporation duly licensed to transact business in the State of Arizona. At all material times, Defendant Pineapple Express Delivery LLC does business, has offices, and/or maintains agents for the transaction of its customary business in Maricopa County, Arizona.

1 13. At all relevant times, Defendant Pineapple Express Delivery LLC owned
2 and operated as “Pineapple Express Deliver,” a delivery service company that contracts
3 with DHL to deliver packages to DHL’s customers.

4 14. Under the FLSA, Defendant Pineapple Express Delivery LLC is an
5 employer. The FLSA defines “employer” as any person who acts directly or indirectly in
6 the interest of an employer in relation to an employee. At all relevant times, Defendant
7 Pineapple Express Delivery LLC had the authority to hire and fire employees, supervised
8 and controlled work schedules or the conditions of employment, determined the rate and
9 method of payment, and maintained employment records in connection with Plaintiff’s
10 employment with Defendants. As a person who acted in the interest of Defendants in
11 relation to the company’s employees, Defendant Pineapple Express Delivery LLC is
12 subject to liability under the FLSA.

13 15. Defendants Pedro Flores and Jane Doe Flores are, upon information and
14 belief, husband and wife. They have caused events to take place giving rise to the claims
15 in this Complaint as to which their marital community is fully liable. Pedro Flores and
16 Jane Doe Flores are owners of Pineapple Express Delivery LLC and were at all relevant
17 times Plaintiff’s employers as defined by the FLSA, 29 U.S.C. § 203(d).

18 16. Under the FLSA, Defendants Pedro Flores and Jane Doe Flores are
19 employers. The FLSA defines “employer” as any person who acts directly or indirectly
20 in the interest of an employer in relation to an employee. At all relevant times,
21 Defendants Pedro Flores and Jane Doe Flores had the authority to hire and fire
22 employees, supervised and controlled work schedules or the conditions of employment,
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1 determined the rate and method of payment, and maintained employment records in
2 connection with Plaintiff's employment with Defendants. As persons who acted in the
3 interest of Defendants in relation to the company's employees, Defendants Pedro Flores
4 and Jane Doe Flores are subject to individual liability under the FLSA.
5

6 17. Plaintiff is further informed, believes, and therefore alleges that each of the
7 Defendants herein gave consent to, ratified, and authorized the acts of all other
8 Defendants, as alleged herein.

9 18. Defendants, and each of them, are sued in both their individual and
10 corporate capacities.
11

12 19. Defendants are jointly and severally liable for the injuries and damages
13 sustained by Plaintiff.

14 20. At all relevant times, Plaintiff was an "employee" of Defendants as defined
15 by the FLSA, 29 U.S.C. § 201, *et seq.*
16

17 21. The provisions set forth in the FLSA, 29 U.S.C. § 201, *et seq.*, apply to
18 Defendants.

19 22. At all relevant times, Defendants were and continue to be "employers" as
20 defined by the FLSA, 29 U.S.C. § 201, *et seq.*
21

22 23. The provisions set forth in the A.R.S. Title 23, Articles 7 and 8 apply to
23 Defendants.

24 24. At all relevant times, Plaintiff was an "employee" of Defendants as defined
25 by A.R.S. § 23-362.
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27

1 36. Specifically, Plaintiff worked from approximately 3:30 a.m. until 2:30 p.m.,
2 Monday through Saturday.

3 37. Plaintiff was initially compensated a weekly rate of \$750.00, and ultimately
4 ended his employment earning a weekly rate of \$800.00.

5 38. During his final week of work, Plaintiff worked 66 hours for Defendants.

6 39. Defendants failed to compensate Plaintiff any wages whatsoever for his
7 final week of work for Defendants.

8 40. As a result of these failing to pay Plaintiff any wages whatsoever for his
9 final week of work, Defendants failed to compensate Plaintiff at least the statutory
10 minimum wage for all hours worked in his final workweek.

11 41. As a result of Defendants' willful failure to compensate Plaintiff at least the
12 statutory minimum wage for such hours worked, Defendants violated 29 U.S.C. § 206(a).

13 42. As a result of Defendants' willful failure to compensate Plaintiff at least the
14 statutory minimum wage for such hours worked, Defendants violated the AMWA,
15 A.R.S. § 23-363.

16 43. As a result of Defendants' willful failure to compensate Plaintiff all wages
17 due and owing for such hours worked, Defendants violated the AWA, A.R.S., § 23-351.

18 44. Plaintiff routinely worked with knowledge of Defendants, and generally at
19 Defendants' request, in excess of 40 hours per week during his employment with
20 Defendants.
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1 45. At all relevant times, Defendants did not pay Plaintiff one and one-half
2 times his regular rates of pay for time spent working in excess of 40 hours in a given
3 workweek.

4 46. During the time that Plaintiff worked for Defendants, Plaintiff regularly
5 worked in excess of 40 hours in a given workweek without receiving one and one-half
6 times his regular rate of pay, in violation of the FLSA, 29 U.S.C. § 207(a).

7 47. Plaintiff was not a manager in his work for Defendants.

8 48. Plaintiff did not have supervisory authority over any employees in his work
9 for Defendants.
10

11 49. Plaintiff did not possess the authority to hire or fire employees in his work
12 for Defendants.
13

14 50. Plaintiff did not possess the authority to make critical job decisions with
15 respect to any of Defendants' employee in his work for Defendants.
16

17 51. Plaintiff did not direct the work of two or more employees in his work for
18 Defendants.

19 52. Plaintiff did not exercise discretion and independent judgment with respect
20 to matters of significance in his work for Defendants.
21

22 53. Plaintiff did not perform office or non-manual work for Defendants in his
23 work for Defendants.

24 54. Plaintiff's primary duty was not the management of the enterprise in which
25 he was employed or any recognized department of the enterprise in his work for
26 Defendants.
27

1 55. At all relevant times, in his work for Defendants Plaintiff was a non-exempt
2 employee.

3 56. Throughout the duration of Plaintiff's employment, Defendants failed to
4 properly compensate Plaintiff for his overtime hours.

5 57. Defendants' failure to pay Plaintiff one and one-half times the applicable
6 hourly rate of pay for all hours worked in excess of 40 per week violated 29 U.S.C. §
7
8 207.

9 58. Defendants knew that – or acted with reckless disregard as to whether –
10 their failure to pay Plaintiff the proper minimum wage or overtime rate would violate
11 federal and state law, and Defendants were aware of the FLSA overtime requirements
12 during Plaintiff's employment. As such, Defendants' conduct constitutes a willful
13 violation of the FLSA.
14

15 59. During his final workweek of employment, Defendants failed to
16 compensate Plaintiff at least the applicable minimum wage for all hours worked in
17 violation of the Arizona minimum wage act.
18

19 60. As a result, Defendants have violated the AMWA, A.R.S. § 23-362, et seq.
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21 61. Defendants knew that – or acted with reckless disregard as to whether –
22 their failure to pay Plaintiff the proper minimum wage rate would violate state law, and
23 Defendants were aware of the AMWA minimum wage requirements during Plaintiff's
24 employment. As such, Defendants' conduct constitutes a willful violation of the AMWA.
25

26 62. Plaintiff is a covered employee within the meaning of the Fair Labor
27 Standards Act ("FLSA").

1 63. Plaintiff is a covered employee within the meaning of the Arizona
2 Minimum Wage Act.

3 64. At all relevant times, Plaintiff was a non-exempt employee.

4 65. Defendants refused and/or failed to properly disclose to or apprise Plaintiff
5 of his rights under the FLSA.
6

7 66. Defendants wrongfully withheld wages from Plaintiff by failing to pay all
8 wages due for hours Plaintiff worked.

9 67. Defendants individually and/or through an enterprise or agent, directed and
10 exercised control over Plaintiff's work and wages at all relevant times.
11

12 68. Due to Defendants' illegal wage practices, Plaintiff is entitled to recover
13 from Defendants compensation for unpaid wages, an additional amount equal amount as
14 liquidated damages, interest, and reasonable attorney's fees and costs of this action under
15 29 U.S.C. § 216(b).
16

17 69. Due to Defendants' illegal wage practices, Plaintiff is entitled to recover
18 from Defendants compensation for unpaid wages, an additional amount equal to twice the
19 unpaid minimum wages as liquidated damages, interest, and reasonable attorney's fees
20 and costs of this action under A.R.S § 23-363.
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22 70. Due to Defendants' illegal wage practices, Plaintiff is entitled to recover
23 from Defendants compensation for his unpaid wages at an hourly rate, to be proven at
24 trial, in an amount that is treble the amount of his unpaid wages, plus interest thereon,
25 and his costs incurred under A.R.S. § 23-355.
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27 **COUNT ONE: FAIR LABOR STANDARDS ACT**

FAILURE TO PAY OVERTIME

71. Plaintiff realleges and incorporates by reference all allegations in all preceding paragraphs.

72. Plaintiff was a non-exempt employee entitled to statutorily mandated overtime wages.

73. In a given workweek, Defendants failed to pay one and one-half times the applicable regular rate of pay for all hours worked in excess of 40 hours.

74. As a result of Defendants' failure to pay Plaintiff one and one-half times his regular rate for all hours worked in excess of 40 per week in a given workweek, Defendants failed and/or refused to pay Plaintiff the applicable overtime rate for all hours worked for the duration of his employment, in violation of 29 U.S.C. § 207.

75. As a result of Defendants' willful failure to compensate Plaintiff the applicable overtime rate for all hours worked, Defendants violated the FLSA.

76. As such, the full applicable overtime rate is owed for all hours that Plaintiff worked in excess of 40 hours per week.

77. Defendants knew that – or acted with reckless disregard as to whether – their failure to pay Plaintiff the proper overtime rate would violate federal and state law, and Defendants were aware of the FLSA minimum wage requirements during Plaintiff's employment. As such, Defendants' conduct constitutes a willful violation of the FLSA.

78. Defendants have and continue to willfully violate the FLSA by not paying Plaintiff a wage equal to one- and one-half times the applicable regular rate of pay for all time Plaintiff spent working for Defendants.

79. Plaintiff is therefore entitled to compensation one and one-half times his regular rate of pay for all hours worked in excess of 40 per week at an hourly rate, to be proven at trial, plus an additional equal amount as liquidated damages, together with interest, costs, and reasonable attorney fees.

WHEREFORE, Plaintiff, Guadalupe Ayala, respectfully requests that this Court grant the following relief in Plaintiff's favor, and against Defendants:

- A. For the Court to declare and find that the Defendants committed one of more of the following acts:
 - i. Violated overtime wage provisions of the FLSA, 29 U.S.C. § 207(a), by failing to pay proper minimum wages;
 - ii. Willfully violated overtime wage provisions of the FLSA, 29 U.S.C. § 207(a) by willfully failing to pay proper overtime wages;
- B. For the Court to award Plaintiff's unpaid overtime wage damages, to be determined at trial;
- C. For the Court to award compensatory damages, including liquidated damages pursuant to 29 U.S.C. § 216(b), to be determined at trial;
- D. For the Court to award prejudgment and post-judgment interest;
- E. For the Court to award Plaintiff reasonable attorneys' fees and costs of the action pursuant to 29 U.S.C. § 216(b) and all other causes of action set forth herein;
- F. Such other relief as this Court shall deem just and proper.

COUNT TWO: FAIR LABOR STANDARDS ACT

FAILURE TO PAY MINIMUM WAGE

80. Plaintiff realleges and incorporates by reference all allegations in all preceding paragraphs.

81. As a result of failing to compensate Plaintiff any wages whatsoever for his final week of work for Defendants, Defendants willfully failed or refused to pay Plaintiff the FLSA-mandated minimum wage.

82. Defendants' practice of willfully failing or refusing to pay Plaintiff at the required minimum wage rate violated the FLSA, 29 U.S.C. § 206(a).

83. Plaintiff is therefore entitled to compensation for the full applicable minimum wage at an hourly rate, to be proven at trial, plus an additional equal amount as liquidated damages, together with interest, reasonable attorney's fees, and costs.

WHEREFORE, Plaintiff, Guadalupe Ayala, respectfully requests that this Court grant the following relief in Plaintiff's favor, and against Defendants:

A. For the Court to declare and find that the Defendants committed one of more of the following acts:

i. Violated minimum wage provisions of the FLSA, 29 U.S.C. § 206(a), by failing to pay proper minimum wages;

ii. Willfully violated minimum wage provisions of the FLSA, 29 U.S.C. § 206(a) by willfully failing to pay proper minimum wages;

B. For the Court to award Plaintiff's unpaid minimum wage damages, to be determined at trial;

- 1 C. For the Court to award compensatory damages, including liquidated
2 damages pursuant to 29 U.S.C. § 216(b), to be determined at trial;
3 D. For the Court to award prejudgment and post-judgment interest;
4 E. For the Court to award Plaintiff reasonable attorneys' fees and costs of the
5 action pursuant to 29 U.S.C. § 216(b) and all other causes of action set
6 forth herein;
7 F. Such other relief as this Court shall deem just and proper.

8
9 **COUNT THREE: ARIZONA MINIMUM WAGE ACT**
10 **FAILURE TO PAY MINIMUM WAGE**

11 84. Plaintiff realleges and incorporates by reference all allegations in all
12 preceding paragraphs.
13

14 85. As a result of failing to compensate Plaintiff any wages whatsoever for his
15 final week of work for Defendants, Defendant willfully failed or refused to pay Plaintiff
16 the Arizona minimum wage.

17 86. Defendant's practice of willfully failing or refusing to pay Plaintiff at the
18 required minimum wage rate violated the AMWA, A.R.S. § 23-363.
19

20 87. Plaintiff is therefore entitled to compensation for the full applicable
21 minimum wage at an hourly rate, to be proven at trial, plus an additional amount equal to
22 twice the underpaid wages as liquidated damages, together with interest, reasonable
23 attorney's fees, and costs.
24

25 **WHEREFORE**, Plaintiff, Guadalupe Ayala, respectfully requests that this Court
26 grant the following relief in Plaintiff's favor, and against Defendants:
27

1 A. For the Court to declare and find that the Defendant committed one of more
2 of the following acts:

3 i. Violated minimum wage provisions of the AMWA, A.R.S. § 23-
4 363, by failing to pay proper minimum wages;

5
6 ii. Willfully violated minimum wage provisions of the AMWA, A.R.S.
7 § 23-363 by willfully failing to pay proper minimum wages;

8 B. For the Court to award Plaintiff's unpaid minimum wage damages, to be
9 determined at trial;

10 C. For the Court to award compensatory damages, including liquidated
11 damages pursuant to A.R.S. § 23-364, to be determined at trial;

12 D. For the Court to award prejudgment and post-judgment interest;

13 E. For the Court to award Plaintiff reasonable attorneys' fees and costs of the
14 action pursuant to A.R.S. § 23-364 and all other causes of action set forth
15 herein;

16 F. Such other relief as this Court shall deem just and proper.
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18
19 **COUNT FOUR: ARIZONA WAGE ACT**
20 **FAILURE TO PAY WAGES DUE AND OWING**

21 88. Plaintiff realleges and incorporates by reference all allegations in all
22 preceding paragraphs.

23
24 89. As a result of the allegations contained herein, Defendants did not
25 compensate Plaintiff wages due and owing to him.

26 90. Defendants engaged in such conduct in direct violation of A.R.S. § 23-350.
27

1 91. As such, unpaid wages for such time Plaintiff worked are owed to Plaintiff
2 for the entire time he was employed by Defendants.

3 92. Defendants knew that – or acted with reckless disregard as to whether –
4 their refusal or failure to properly compensate Plaintiff over the course of his
5 employment would violate federal and state law, and Defendants were aware of the
6 Arizona Wage Act’s requirements during Plaintiff’s employment. As such, Defendants’
7 conduct constitutes a willful violation of the Arizona Wage Act.
8

9 93. Plaintiff is therefore entitled to compensation for his unpaid wages at an
10 hourly rate, to be proven at trial, in an amount that is treble the amount of his unpaid
11 wages, plus interest thereon, and his costs incurred.
12

13 **WHEREFORE**, Plaintiff, Guadalupe Ayala, requests that this Court grant the
14 following relief in Plaintiff’s favor, and against Defendants:
15

- 16 A. For the Court to declare and find that the Defendants violated the unpaid
17 wage provisions of A.R.S. § 23-350, et seq., by failing to pay wages due
18 and owing to Plaintiff;
19 B. For the Court to award an amount that is treble Plaintiff’s unpaid wages
20 pursuant to A.R.S. § 23-355, in amounts to be determined at trial;
21 C. For the Court to award prejudgment and post-judgment interest on any
22 damages awarded;
23 D. For the Court to award Plaintiff’s reasonable attorneys’ fees and costs of
24 the action and all other causes of action set forth in this Complaint; and
25 E. Such other relief as this Court deems just and proper.
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27

JURY TRIAL DEMAND

Plaintiff hereby demands a trial by jury on all issues so triable.

RESPECTFULLY SUBMITTED this 7th day of October 2022.

BENDAU & BENDAU PLLC

By: /s/ Christopher J. Bendau

Christopher J. Bendau

Clifford P. Bendau, II

Attorney for Plaintiff

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